

STATE OF FLORIDA

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DIVISION OF POLICY ANALYSIS &
INTERGOVERNMENTAL LIAISON
CHARLES H. HILL
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(850) 413-6800

Public Service Commission

April 10, 2000

VIA AIRBORNE EXPRESS

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW - TW-A325
Washington, DC 20554

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Re: CC Docket No. 00-45, Revised Petition of MCI WorldCom, Inc., for Declaratory Ruling regarding the Process for Adoption of Agreements Pursuant to Section 252(i) of the Communications Act and Section 51.809 of the Commission's Rules

Dear Ms. Salas:

Enclosed please find the original and five (5) copies of the Florida Public Service Commission Reply Comments in the above-noted docket. Please date stamp and return one copy in the enclosed self-addressed envelope.

Sincerely,

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

CBM:tf

cc: Brad Ramsay, National Association of Regulatory Utility Commissioners
Common Carrier Bureau
International Transcription Service (with diskette)

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In re:)
)
Revised Petition of MCI WorldCom, Inc.)
for DA 00-592 Declaratory Ruling)
Regarding the Process for Adoption of)
Agreements Pursuant to Section 252(i))
of the Communications Act and Section)
51.809 of the Commission's Rules)
_____)

CC Docket No. 00-45

FLORIDA PUBLIC SERVICE COMMISSION REPLY COMMENTS

The Florida Public Service Commission (FPSC) is pleased to provide reply comments on three of the issues which MCI WorldCom, Inc. (MCI WorldCom) raises in its petition. Our three areas of comment are as follows:

- (a) The role of state commissions in adopting agreements under Section 252(i) of the Telecommunications Act of 1996 (the Act)
- (b) Resolution of disputes pursuant to Section 51.809 of the FCC's Rules
- (c) Status of adoption during pendency of a dispute

These issues are particularly important to state regulators, and we address each of these issues in turn.

Role of State Commissions in Adopting Agreements under
Section 252 (i)

In its petition, MCI WorldCom expresses concern about the "panoply of state procedures for the adoption of already approved agreements." (Petition @ p. 10) The FPSC believes that MCI WorldCom raises some very legitimate concerns, but we would not go

so far as to restrict state procedures to only challenges related to cost, technical feasibility, or legitimately related terms. We do agree, however, that there is no reason for a protracted approval process at the state level. In fact, we do not believe that it is necessary for a state commission to "approve" adoptions of already approved agreements; rather, in our view, a state commission should "acknowledge" adoptions.

The FPSC's current procedures on adoptions may serve as a useful model. We do not "approve" the subsequent adoptions of an agreement as this would be needlessly repetitive since the original agreement has been approved by the FPSC. We have, however, delegated to our staff the authority to administratively acknowledge the adoption by opening a docket and preparing an administrative order. The entire process is normally completed within 30 days. While Section 252(i) is silent as to whether or not adoptions should be approved, the FPSC is concerned that some level of review may be necessary, such as that provided in our acknowledgment process, in order to fulfill the requirements of Sections 252(a)(1) and 252(e)(1). In addition, we have a practical concern in that the parties to the original agreement, or to an adoption, may have a dispute over one or more provisions in their agreement and file a formal complaint. Any complaints which are filed in relation to the original agreement and the adoptions should be resolved by the same regulatory body. In order to ensure

consistency in interpretation, the FPSC believes it is necessary for the state commission to acknowledge the adoption and thereby confirm jurisdiction in the event of a subsequent dispute and complaint.

Resolution of Disputes Pursuant to Section 51.809
of the FCC's Rules

If the incumbent LEC raises issues of increased cost, technical feasibility, or legitimately related terms, under Section 51.809 the incumbent is required to make a showing before the state commission substantiating its claim(s). MCI WorldCom is requesting that the FCC require an expedited process, similar to what is being done in California and Texas, whereby the objections are resolved within 30 days. The FPSC does not have an expedited dispute resolution procedure; however, we do resolve any objections within 90 days, which is the same time frame for handling a negotiated agreement. While we do not object to a more expedited process, we would require 60 days due to scheduling constraints with the FPSC calendar. Moreover, while we believe it is reasonable to infer from Section 252(i) that an expedited process is envisioned, we do not believe that a declaratory statement is the proper vehicle for establishing a standard procedure. In order to ensure adequate input from the states and be in accord with established FCC procedures for adopting rules, we believe it would be important to issue a Notice of Proposed Rulemaking.

Status of Adoption During Pendency of Dispute

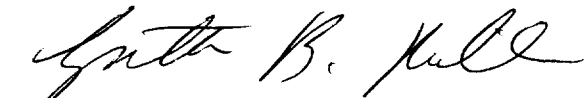
The FPSC shares MCI WorldCom's concern that an incumbent LEC could delay the state's review process in an attempt to allow an agreement to expire prior to the adoption (or modification thereof) being approved. This could place entrants in the awkward position of not being able to provide service or necessitating that they adopt another, less favorable agreement. Consequently, we agree that an incumbent LEC should be required to honor the adoption of those terms which are not in dispute.

Conclusion

In summary, the FPSC recommends the following:

- (a) State commissions should "acknowledge" adoptions under Section 252(i) of the Act.
- (b) Any expedited dispute resolution process which may be required under Section 51.809 of the FCC's rules should be established through a Notice of Proposed Rulemaking.
- (c) An incumbent LEC should be required to honor the adoption of those terms which are not in dispute.

Respectfully submitted,



Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6082

DATED April 10, 2000.

Florida Public Service Commission
CC Docket No. 00-45

Certificate of Service

I hereby certify that copies of these FPSC reply comments are being mailed to the attached abbreviated service list for the above docket.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Cynthia B. Miller".

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
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DATED April 10, 2000.

Florida Public Service Commission
CC Docket No. 00-45

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